

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

KELVIN R. LOVETT,

Petitioner,

-vs-

WARDEN, Southern Ohio Correctional
Institution

Respondent.

:

Case No. 1:11-cv-518

:

Chief Judge Susan J. Dlott
Magistrate Judge Michael R. Merz

REPORT AND RECOMMENDATIONS

This case is before the Court on Petitioner's Motion for Relief from Judgment (Doc. No. 37).

It is unclear to this Court what judgment Petitioner seeks to have set aside. He has attached to his Motion an Opinion from the First District Court of Appeals in which that court set aside the judgment of the Hamilton County Common Pleas Court denying co-defendant Johnny Gamble's petition for post-conviction relief for lack of jurisdiction. *State v. Gamble*, 2012-Ohio-4045, 2012 Ohio App. LEXIS 3599 (Ohio App. 1st Dist. Sept. 7, 2012). Petitioner claims he is entitled to the same relief. However, upon examination of the Return of Writ, the Court finds no reference to any petition for post-conviction relief filed by Petitioner in the state courts and therefore there is no parallel judgment.

Even if there were a judgment in Lovett's case parallel to that in Gamble's, this Court would have no power to grant relief from that judgment. This Court has power under Fed. R. Civ.

P. 60(b) only to grant relief from its own judgments.

Therefore the Motion for Relief from Judgment should be denied.

November 6, 2012.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).